IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

Flectere LLC,	Case No. _____
Plaintiff,	Patent Case
v.	Jury Trial Demanded
Sears Brands, L.L.C.,	
Defendant.	

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Flectere LLC ("Flectere"), through its attorney, complains of Sears Brands,

L.L.C. ("Sears"), and alleges the following:

PARTIES

1.   Plaintiff Flectere LLC is a corporation organized and existing under the laws of

Texas and maintains its principal place of business at 5068 West Plano Parkway, Suite 300,

Plano, TX 75093.

2.   Defendant Sears Brands, L.L.C. is a corporation organized and existing under the

laws of Illinois that maintains its principal place of business at 3333 Beverly Road, Hoffman

Estates, IL 60179.

JURISDICTION

3.   This is an action for patent infringement arising under the patent laws of the

United States, Title 35 of the United States Code.

4.   This Court has exclusive subject matter jurisdiction under 28 U.S.C. §§ 1331 and

1338(a).

5.   This Court has personal jurisdiction over Sears because it has engaged in systematic and continuous business activities in the Eastern District of Texas. Specifically, Sears provides its full range of services to residents in this District. As described below, Sears has committed acts of patent infringement giving rise to this action within this District.

VENUE

6.   Venue is proper in this District under 28 U.S.C. § 1400(b) because Sears has committed acts of patent infringement in this District and has a regular and established place of business in this District. Specifically, Sears has retail stores in this location, including a store located at 851 N. Central Expwy., Plano, TX 75075. In addition, Flectere has suffered harm in this district.

PATENTS-IN-SUIT

7.   Flectere is the assignee of all right, title and interest in United States Patent Nos. 6,272,506 (the "'506 Patent"), 6,415,284 (the "'284 Patent") and 6,401,094 (the "'094 Patent") (collectively, the "Patents-in-Suit"), including all rights to enforce and prosecute actions for infringement and to collect damages for all relevant times against infringers of the Patents-in-Suit. Accordingly, Flectere possesses the exclusive right and standing to prosecute the present action for infringement of the Patents-in-Suit by Sears.

The '506 Patent

8.   On August 7, 2001, the United States Patent and Trademark Office issued the '506 Patent. The '506 Patent is titled "Computerized Verification Form Processing System and Method." The application leading to the '506 Patent was filed on September 12, 1997. A true and

correct copy of the '506 Patent is attached hereto as Exhibit A and incorporated herein by reference.

9.   The '506 Patent is valid and enforceable.

10.   The inventors recognized that there was a need for improving computerized form processing systems that complied with current manufacturing procedures. Ex. A, 2:46-48.

11.   The invention in the '506 Patent provides an improved computerized form processing system and method. Ex. A, 2:15-18.

12.   To this end, the inventors recognized the importance of automatically keeping track of changes and complying with government regulations. Ex. A, 4:48-52. ("Thus, system 20, FIG. 2 provides an improved computerized form processing System and method which automatically keeps track of all changes made to data entries in a computerized form and therefore complies with FDA requirements concerning data changes.").

The '284 Patent

13.   On July 2, 2002, the United States Patent and Trademark Office issued the '284 Patent. The '284 Patent is titled "Intelligent Forms for Improved Automated Workflow Processing." The application leading to the '284 Patent was filed on June 30, 1999. A true and correct copy of the '284 Patent is attached hereto as Exhibit B and incorporated herein by reference.

14.   The '284 Patent is valid and enforceable.

15.   The inventors recognized that there was a need for simplifying information for workflow processing and reducing susceptibility of information entry errors. Ex. B, 1:36-40.

16.   To this end, the inventors recognized the importance of verifying forms filled with data and reducing error. Ex. B, 2:20-25. ("[I]ntelligent forms . . . intelligently pre-populated

using a business data base and includ[ing] logic for verification of properly supplied data to minimize effort in filling in such forms and to minimize the risk of accepting invalid form data, thus reducing the System's susceptibility to error.").

The '094 Patent

17.   On June 4, 2002, the United States Patent and Trademark Office issued the '094 Patent. The '284 Patent is titled "System and Method for Presenting Information in Accordance with User Preference." The application leading to the '094 Patent was filed on May 27, 1999. A true and correct copy of the '094 Patent is attached hereto as Exhibit C and incorporated herein by reference.

18.   The '094 Patent is valid and enforceable.

19.   The inventors recognized that there was a need for the dynamic formatting of information to suit each user's personality traits. Ex. C, 2:1-4.

20.   To this end, the inventors recognized the importance of delivering information to a user in a format selected by the user. Ex. C, 2:13-17. ("[T]he present invention is directed to a system and method, usable with the World Wide Web or another communication technology, for delivering information to a user in a format selected by the user.").

<div align="center">COUNT I: INFRINGEMENT OF THE '506 PATENT</div>

21.   Flectere incorporates the above paragraphs herein by reference.

22.   **Direct Infringement.** Sears has been and continues to directly infringe at least claim 11 of the '506 Patent in this District and elsewhere in the United States by providing a system, for example, Sears's payment processing portal, that is a computerized form processing system allowing users to fill in their contact information. *See* Figure 1, available at: https://www.sears.com/crsp/mx/checkout#/checkout/fulfillment.

Figure 1. Sears's payment processing portal allows users to fill in their contact information.

23.   Sears's payment processing portal has claim element 1(a): "a database for storing at least one form including one or more fields." For example, Sears's payment processing portal internally stores data entered into the form. *See* Figure 2, available at:

https://www.sears.com/crsp/mx/checkout#/checkout/fulfillment.

Enter Your Contact Information

First Name *required*

Last Name *required*

Street Address Line 1 *required*

We cannot ship to P.O. Boxes

Street Address Line 2   is this FPO/APO?

Zip Code *required*

Enter for city and state

Phone Number *required*   why is this required?

(999) 999-9999

Add another phone number

```
▼<form name="addressform" method="post" custom-submit=
"persistAddress();" novalidate="novalidate" distance="-77" class=
"shc-form form-validation-v2 address-info ng-pristine ng-invalid
ng-invalid-required"> == $0
```

Figure 2. Sears's payment processing portal internally stores data entered into the form.

24.   Sears's payment processing portal has claim element 1(b): "a viewer for viewing a stored form." For example, Sears's payment processing portal allows users to see the data they enter into the form. *See* Figure 2.

25.   Sears's payment processing portal has claim element 1(c): "a data entry device for allowing a user to enter information into the fields of the form." For example, Sears's payment processing portal allows users to enter in data, such as street address, into the form. *See* Figure 3.

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Figure 3. Sears's payment processing portal allows users to enter in data, such as street address, into the form.

26. Sears's payment processing portal has claim element 1(d): "a monitoring routine configured to actively monitor whether previously entered information in a field of the form is being changed by the user." For example, Sears's payment processing portal monitors whether previously entered information is being changed by users. *See* Figure 4.

```
▼<div class="address-input-container city-state-zip-container">
    <!--CITY-STATE-->
  ▼<div ng-hide="stateabr == ''" class="fadeslide-content city-
  state-container ng-hide">
      <!--CITY-->
      <!-- ngIf: (editAddressInd != 'Y' && cityLookupFailed !=
      'Y') -->
    ▶<div ng-if="(editAddressInd != 'Y' && cityLookupFailed !=
    'Y')" class="city-container ng-scope">…</div>
      <!-- end ngIf: (editAddressInd != 'Y' && cityLookupFailed
      != 'Y') -->
      <!-- ngIf: (editAddressInd == 'Y' || cityLookupFailed ==
      'Y') -->
      <!--STATE-->
    ▼<div class="state-container">
      ▶<label for="shipState">…</label>
      ▶<span class="select select-gray">…</span>
      ▶<span validation-success="validation-success" model-
      controller="addressform.state" class="ng-isolate-scope">…
      </span>
      ▶<div validation-messages="validation-messages" model-
      controller="addressform.state" required-error="Please
      enter your state, province or region. Note: Please omit
      any accent marks, as they cannot be accepted." class="ng-
      isolate-scope">…</div>
      </div>
    ▼<div ng-hide="countyShow == ''" class="county-container">
        <label for="shipCounty">County</label>
      ▶<span class="select select-gray">…</span>
      </div>
    </div>
  ▶<div class="zip-container">…</div>
```

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Street Address Line 1 *required*

1400 Preston Rd Ste 400   We cannot ship to P.O. Boxes

Street Address Line 2   is this FPO/APO?

City *required*

PLANO   ⌄

State *required*

TX ⌄

County

COLLIN   ⌄

Zip Code *required*

75093   Enter for city and state

Figure 4. Sears's payment processing portal monitors whether previously entered information is being changed by users.

27.   Sears's payment processing portal has claim element 1(e): "a field modification verification routine configured to, on the viewer, prompt the user to sign off on any such change." For example, Sears's payment processing portal will ask users whether they want to use a suggested shipping address instead of the address they manually entered and is configured to then prompt the user to sign off on a change to the address information. *See* Figure 5, available at: https://www.sears.com/crsp/mx/checkout#/checkout/fulfillment.
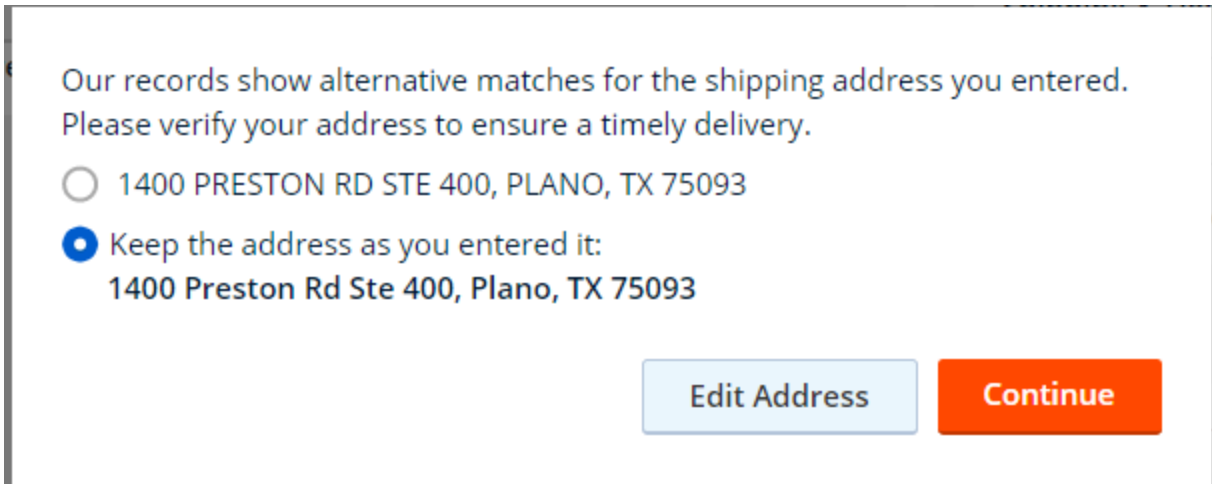
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Figure 5. Sears's payment processing portal will ask users whether they want to use a suggested shipping address instead of the address they manually entered.

28.   **Induced Infringement.** Sears has also actively induced, and continues to induce, the infringement of at least claim 11 of the '506 Patent by actively inducing its customers, including merchants and end-users to use Sears's website in an infringing manner as described above. Upon information and belief, Sears has specifically intended that its customers use its website that infringe at least claim 11 of the '506 Patent by, at a minimum, providing access to support for, training and instructions for, its website to its customers to enable them to infringe at least claim 11 of the '506 Patent, as described above. Even where performance of the steps required to infringe at least claim 11 of the '506 Patent is accomplished by Sears and Sears's customer jointly, Sears's actions have solely caused all of the steps to be performed.

29.   Flectere is entitled to recover damages adequate to compensate it for such infringement in an amount no less than a reasonable royalty under 35 U.S.C. § 284.

30.   Flectere will continue to be injured, and thereby caused irreparable harm, unless and until this Court enters an injunction prohibiting further infringement.

COUNT II: INFRINGEMENT OF THE '284 PATENT

31.   Flectere incorporates the above paragraphs herein by reference.

32.   **Direct Infringement.** Sears has been and continues to directly infringe at least

claim 1 of the '284 Patent in this District and elsewhere in the United States by providing a

method, for example, Sears's payment processing portal, for using a data-entry form to receive

data entered by a user allowing users to fill in their contact information. *See* Figure 6, available

at: https://www.sears.com/crsp/mx/checkout#/checkout/fulfillment.

*Figure 6. Sears's payment processing portal allows users to manipulate a data-entry form to
receive data entered by a user that allows users to fill in their contact information.*

33.   Sears's payment processing portal performs the step of claim 1(a): "including one

or more fields in the data-entry form." For example, Sears's payment processing portal has

multiple data fields in the form the user can fill out. *See* Figure 7, available at:

https://www.sears.com/crsp/mx/checkout#/checkout/fulfillment.

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Figure 7. Sears's payment processing portal has multiple data fields in the form the user can fill out.

34.   Sears's payment processing portal performs the step of claim 1(b): "for each of the one or more fields, including verification logic which, when executed, determines whether form data entered by the user is valid." For example, Sears's payment processing portal notifies users whether their zip code or phone number are valid. *See* Figure 8.

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https://www.sears.com/crsp/mx/checkout#/checkout/fulfillment

```
▼<div class="zip-container">
  ▼<label for="addressZipInput">
      "Zip Code"
      <span class="req-opt">required</span>
    </label>
    <input id="addressZipInput" name="zipCode" type="text"
    pattern="[0-9]*" ng-model="volatileAddress.zipCode"
    required="required" ng-pattern="regexp.onlyNumerical"
    maxlength="5" ng-change=
    "checkZipCode(volatileAddress.zipCode);" ng-minlength="5
    class="form-control ng-valid-minlength ng-dirty ng-valid
    required ng-invalid ng-invalid-pattern">
  ▼<span validation-success="validation-success" model-
  controller="addressform.zipCode" class="ng-isolate-scope">
      <span class="shc-success fadeslide-content-overflow ng·
      hide" ng-show="modelController.$valid">
      </span>
    </span>
</span>
```

Figure 8. Sears's payment processing portal notifies users if they incorrectly enter their zip code or phone number.

35.   Sears's payment processing portal performs the step of claim 1(c): "Sending the data-entry form with the Verification logic through a computer network to a remote computer for entry of the data by the user such that the remote computer receives the data entered by the user and executes the verification logic." For example, Sears's payment processing portal sends the data-entry form with the verification logic through a computer network (e.g. the internet) to a remote computer (e.g. the user's computer) for entry of the data by the user such that the remote

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computer receives the data entered by the user and executes the verification logic. Entering a Zip

code in the form adds fields including city, state and county (*see* Figure 9); and the verification

logic runs on the remote computer and determines whether the zip code, city, and state

combination is valid (*see* Figure 8).

First Name *required*

Last Name *required*

Street Address Line 1 *required*

We cannot ship to P.O. Boxes

Street Address Line 2   is this FPO/APO?

Zip Code *required*

Enter for city and state

Phone Number *required*   why is this required?

(999) 999-9999

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Figure 9. Sears's payment processing portal allows users to enter in data, such as street address, into the form.

36.   **Induced Infringement.** Sears has also actively induced, and continues to induce,

the infringement of at least claim 1 of the '284 Patent by actively inducing its customers,

including merchants and end-users to use Sears's website in an infringing manner as described

above. Upon information and belief, Sears has specifically intended that its customers use its

website that infringe at least claim 1 of the '284 Patent by, at a minimum, providing access to

support for, training and instructions for, its website to its customers to enable them to infringe at

least claim 1 of the '284 Patent, as described above. Even where performance of the steps

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required to infringe at least claim 1 of the '284 Patent is accomplished by Sears and Sears's customer jointly, Sears's actions have solely caused all of the steps to be performed.

37.   Flectere is entitled to recover damages adequate to compensate it for such infringement in an amount no less than a reasonable royalty under 35 U.S.C. § 284.

38.   Flectere will continue to be injured, and thereby caused irreparable harm, unless and until this Court enters an injunction prohibiting further infringement.

COUNT III: INFRINGEMENT OF THE '094 PATENT

39.   Flectere incorporates the above paragraphs herein by reference.

40.   Direct Infringement. Sears has been and continues to directly infringe at least claim 1 of the '094 Patent in this District and elsewhere in the United States by providing a system, for example, for presenting information to a user on a workstation operated by the user in accordance with a preference specified by the user through the workstation. See Figure 10, available at: https://m.sears.com.
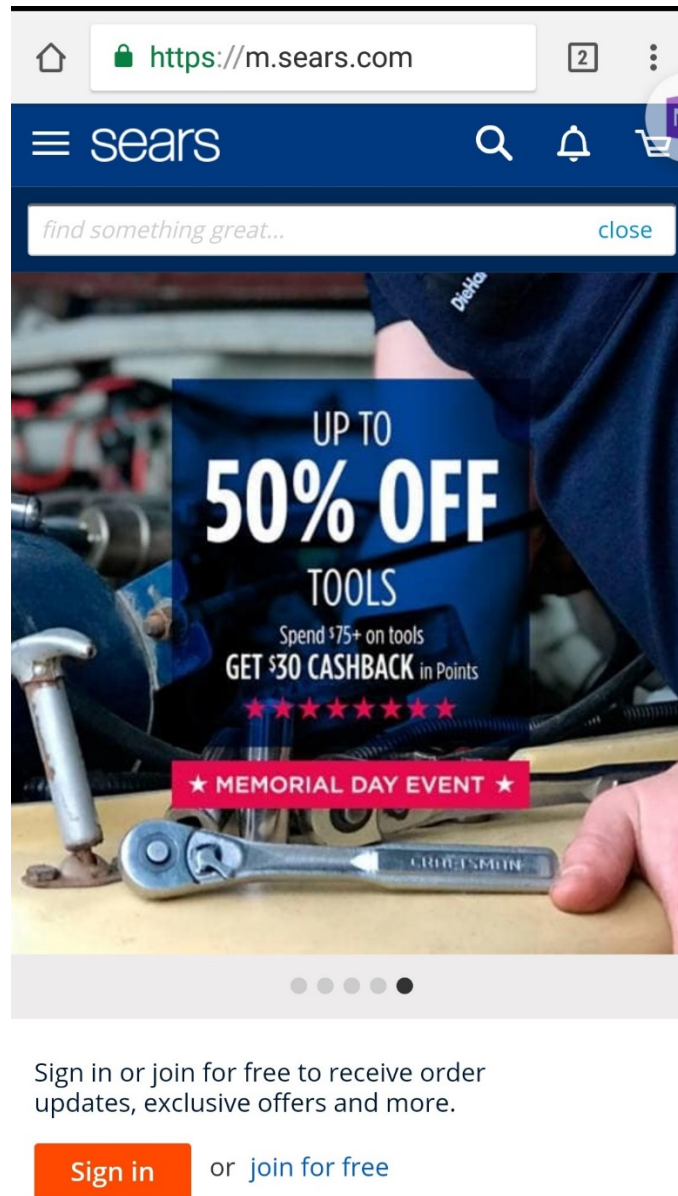
Figure 1. Sears's payment processing portal presents information to a user on a workstation operated by the user in accordance with a preference specified by the user through the workstation.

41.   Sears's payment processing portal has claim element 1(a): "a database server for storing the information." For example, Sears's payment processing portal has a MSQL server to store the information. See Figure 11, available at: https://docs.microsoft.com/en-us/previous-versions/msp-n-p/ee658120%28v%3dpandp.10%29.

Figure 2. Sears's payment processing portal has a MSQL server to store the information.

42.   Sears's payment processing portal has claim element 1(b): "an application server, in communication with the database server and the workstation, for receiving from the workstation a request for the information and an indication of the preference which has been specified by the user through the workstation, retrieving the information from the database server, dynamically formatting the information in accordance with the preference to form custom-formatted information and sending the custom-formatted information to the workstation." For example, a server receives a request for the information and an indication of the preference (e.g. Request desktop site) which has been specified by the user through the workstation. See Figure 12, available at: https://docs.microsoft.com/en-us/previous-versions/msp-n-p/ee658120%28v%3dpandp.10%29.
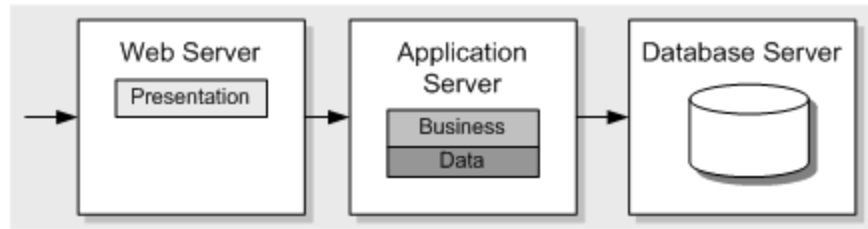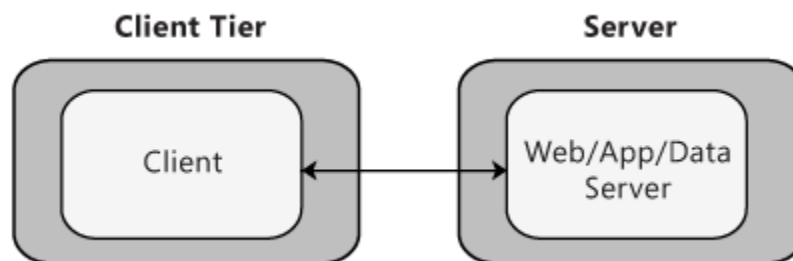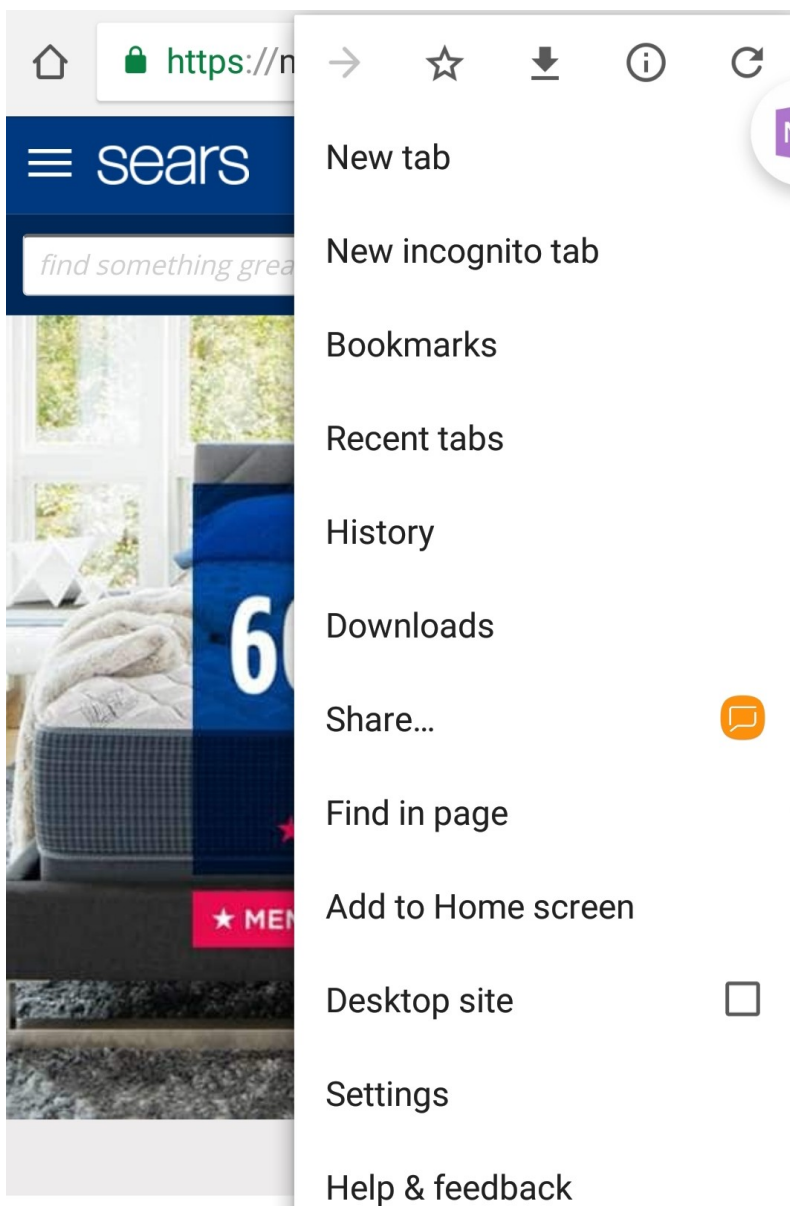
Figure 12. Sears's payment processing portal has a server receive a request for the information and an indication of the preference (e.g. Request desktop site) which has been specified by the user through the workstation.

43.   The accused instrumentality also retrieves the information from the database server, dynamically formats the information in accordance with the preference to form custom formatted information, and sends the custom-formatted information to the workstation. *See* Figure 13, available at: https://m.sears.com.

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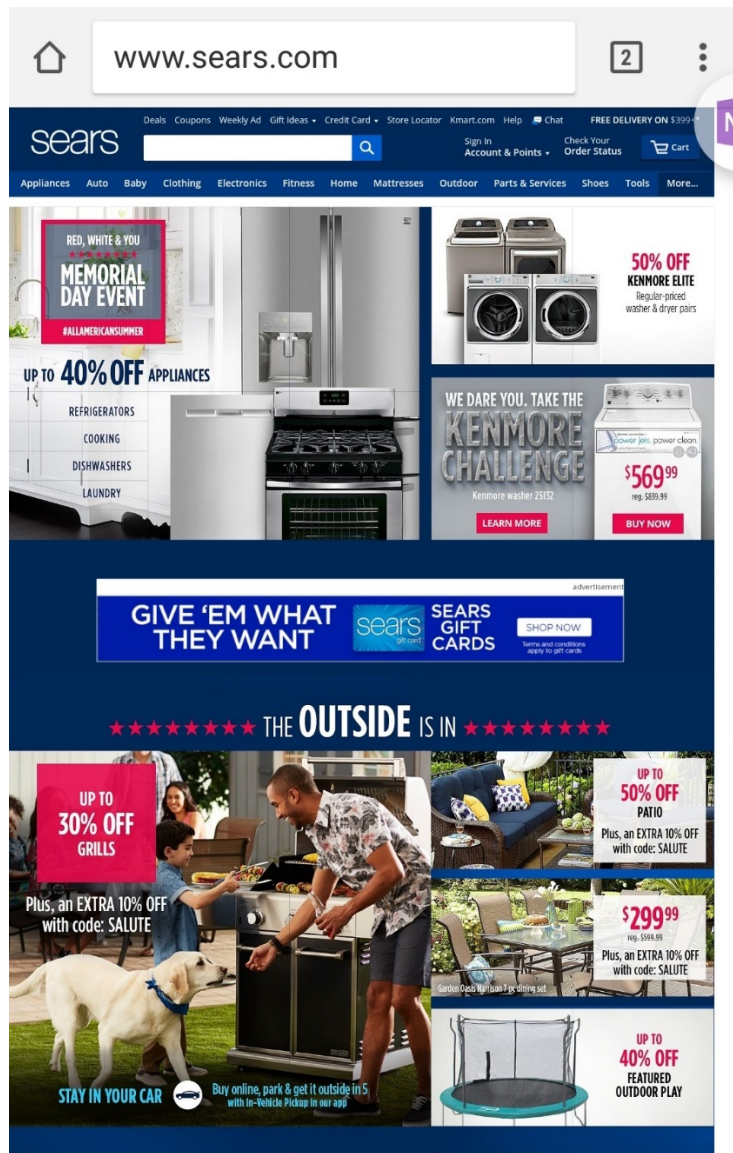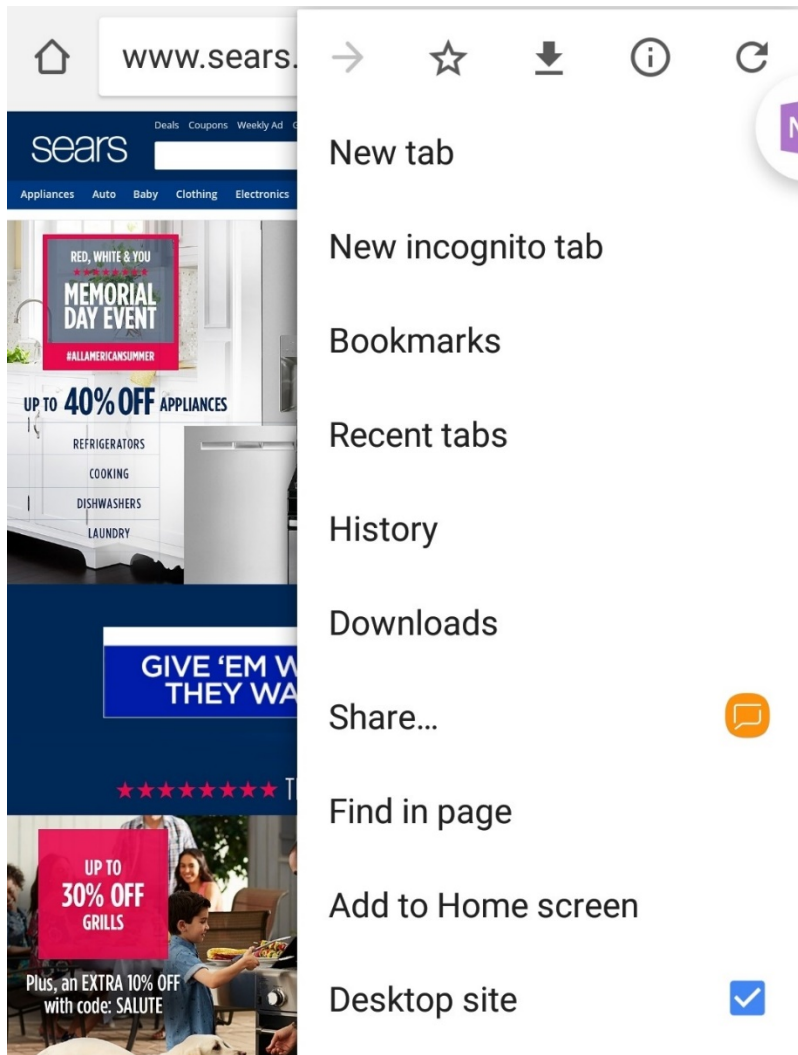
Figure 13. Sears's payment processing portal dynamically formats the information in accordance with the preference to form custom formatted information and sends the custom-formatted information to the workstation.

44.   Induced Infringement. Sears has also actively induced, and continues to induce, the infringement of at least claim 1 of the '094 Patent by actively inducing its customers, including merchants and end-users to use Sears's website in an infringing manner as described above. Upon information and belief, Sears has specifically intended that its customers use its website that infringe at least claim 1 of the '094 Patent by, at a minimum, providing access to support for, training and instructions for, its website to its customers to enable them to infringe at least claim 1 of the '094 Patent, as described above. Even where performance of the steps

required to infringe at least claim 1 of the '094 Patent is accomplished by Sears and Sears's customer jointly, Sears's actions have solely caused all of the steps to be performed.

45.   Flectere is entitled to recover damages adequate to compensate it for such infringement in an amount no less than a reasonable royalty under 35 U.S.C. § 284.

46.   Flectere will continue to be injured, and thereby caused irreparable harm, unless and until this Court enters an injunction prohibiting further infringement.

JURY DEMAND

47.   Under Rule 38(b) of the Federal Rules of Civil Procedure, Flectere respectfully requests a trial by jury on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Flectere asks this Court to enter judgment against Sears, granting the following relief:

A.   A declaration that Sears has infringed the Patents-in-Suit;

B.   An award of damages to compensate Flectere for Sears's direct infringement of the Patents-in-Suit;

C.   An order that Sears and its officers, directors, agents, servants, employees, successors, assigns, and all persons in active concert or participation with them, be preliminarily and permanently enjoined from infringing the Patents-in-Suit under 35 U.S.C. § 283;

D.   An award of damages, including trebling of all damages, sufficient to remedy Sears's willful infringement of the Patents-in-Suit under 35 U.S.C. § 284;

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E.   A declaration that this case is exceptional, and an award to Flectere of reasonable

        attorneys' fees, expenses and costs under 35 U.S.C. § 285;

F.   An award of prejudgment and post-judgment interest; and

G.   Such other relief as this Court or jury may deem proper and just.

Dated: May 24, 2018   Respectfully submitted,

                                       /s/ Isaac Rabicoff

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